

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

**FEDERAL DEPOSIT INSURANCE
CORPORATION AS RECEIVER FOR
EUROBANK,**

Plaintiff,

v.

**RAFAEL ARRILLAGA-TORRÉNS, JR., *et*
al.;**

Defendants.

Case No. 13-01328 (CCC)

FDIC's MOTION FOR LEAVE TO FILE SUR-REPLY

TO THE HONORABLE COURT:

Plaintiff, the Federal Deposit Insurance Corporation, as Receiver for Eurobank ("FDIC-R"), seeks leave of Court to file a Sur-Reply in Opposition to Liberty Mutual Insurance Company's ("Liberty") Motion for Judgment on the Pleadings as follows:

1. On January 31, 2014, Liberty filed its Reply in Support of its Motion for Judgment. Pursuant to Local Rule 7(c), reply memorandums are limited to 10 pages. Liberty's Reply consists of 41 pages, thus quadrupling the number of pages specified in the Local Rules. All told, Liberty's Motion for Judgment and its Reply contain 82 pages of briefing and argument.

2. Moreover, Liberty cites approximately 40 cases that were not cited in its opening brief and that were not cited in either the FDIC-R's Response or in the Director Defendants' Response. Accordingly, the FDIC-R seeks leave to file a Sur-reply in order to address matters raised by Liberty in its 41 page Reply. Specifically, the purpose of the Sur-reply is (1) address arguments asserted by Liberty for the first time in its Reply; (2) to correct Liberty's misunderstanding and mischaracterizations of the FDIC-R's arguments; and (3) to distinguish the

numerous new, but irrelevant, cases cited by Liberty.

3. Local Rule 7(c) allows seven days for a party to file a reply memorandum, with prior leave of court. Thus, the FDIC-R's Sur-reply is due on February 7, 2014.

4. As a result of the complexity of issues raised by Liberty in its reply, together with the numerous new authorities cited, seven days is an insufficient time period for the FDIC-R to adequately respond.

5. The FDIC-R respectfully requests, therefore, that it be granted until February 21, 2014, to file its Sur-reply in Opposition to Liberty's Motion for Judgment.

WHEREFORE, the FDIC-R respectfully requests that the Court grant leave for the filing of the FDIC-R's Sur-Reply and that the due date for this filing be extended to February 21, 2014. The FDIC also respectfully requests that Liberty's Motion for Judgment on the Pleadings be denied in its entirety.

Respectfully submitted on February 7, 2014.

/s/ Jairo Mellado-Villarreal
MELLADO & MELLADO-VILLARREAL
Jairo Mellado-Villarreal, 208112
165 Ponce de León Ave., Suite 102
San Juan, Puerto Rico 00917-1233
Tel. 787-767-2600/Fax 787-767-2645
E-mail: jmellado@mellado.com

MULLIN HOARD & BROWN, LLP
Clint R. Latham (TX Bar No. 24013009)
Robert R. Bell (TX Bar No. 00787062)
admitted pro hac vice
500 South Taylor, Suite 800
Amarillo, Texas 79101
Tel. 806-372-5050/Fax 806-372-5086

Email: clatham@mhba.com
rbell@mhba.com

Steven C. Morrison, Esq., G01713
Federal Deposit Insurance Corporation
7777 Baymeadows Way West, Suite 551L
Jacksonville, FL 32256
Tel. 904-256-3854/Fax. 904-256-3854
E-mail: stemorrison@fdic.gov

Counsel for the FDIC as Receiver of Eurobank

CERTIFICATE OF SERVICE

I hereby certify that on this same date the foregoing motion was filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all CM/ECF participants.

/s/ Jairo Melloado-Villarreal